



Brunei Darussalam ❖

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Brunei is an independent Sultanate on the northwest coast of the island of Borneo in the South China Sea, wedged between the Malaysian states of Sabah and Sarawak.

The Sultanate of Brunei's influence peaked between the 15th and 17th centuries when its control extended over coastal areas of northwest Borneo and the Southern Philippines. Brunei subsequently entered a period of decline brought on by internal strife over royal succession, colonial expansion of European powers and piracy.

Brunei had been a British protectorate since 1888, and became an independent and sovereign country on January 1, 1984. Brunei is an Islamic Sultanate, governed on the basis of a written constitution which came into effect in 1959 and the national philosophy of Malay Islamic Monarchy or *Melayu Islam Beraja* (MIB). MIB is a blend of Malay language, culture and Malay customs, the teaching of Islamic laws and values and the monarchy system which must be esteemed and practiced by all.

The government plays a large role in the economy. The Sultan is the absolute monarch and is the head of state and the government with full executive authority. He serves as the Prime Minister, the Minister of Defence and the Minister of Finance. He is assisted by the legislature, the judiciary and the cabinet. The legislature is made up of the legislative council that only has consultative tasks. The judicial system reflects the strong influence of British common law. The Supreme Court comprises the High Court and the Court of Appeals, while the Subordinate Court consists of the Magistrates' Courts. The jurisdiction of the Islamic Courts which coexist with the Supreme Court however, is limited to family law and property matters for Muslims including inheritance. The cabinet including important members of the Council of Ministers is responsible for overseeing the administration of the government.

PROFILE	
Population:	401.9 thousand***
GDP (Current US\$):	5.72 billion***
Per Capita Income: (Current US\$)	19,210 (at PPP)***
Surface Area:	5770 sq. km
Life Expectancy:	76.4 years***
Literacy (%):	92.7 (of ages 15 and above)***
HDI Rank:	33***
<i>Sources:</i> - World Development Indicators Database, World Bank, 2011 - Human Development Report Statistics, UNDP, 2011 (**) For the year 2011 (***) For the year 2012	

Economy

This small but wealthy economy comprises of a mixture of foreign and domestic entrepreneurship, government regulation, welfare measures, and village traditions. Crude oil and natural gas production accounts for nearly half of the GDP, and the country's inflation rate was recorded at 0.40 percent in October 2012 (Department of Economic Planning and Development, 2012).

The lower production of oil and gas since 2007 had resulted in an economic slowdown in recent years, compared to the past few years of modest annual average growth. In effect, the economy of Brunei Darussalam expanded at a relatively slower real Gross Domestic Product (GDP) growth of 0.2 per cent per annum in the 2005-2009 periods. Substantial fiscal and current account surpluses and the country's diversification efforts have provided a cushion for the recovery. The economy grew by an estimated 2.9 percent in 2011 from a revised 2.6 percent in 2010. The growth stemmed from production and exports of natural gas and crude oil, which account for two-thirds of the GDP, and a better performance by the non-energy sector.

❖ Original paper written (2006-07) internally by CUTS International & updated (December 2012).

The non-energy sector which comprises mainly government services and small agriculture as well as manufacturing output, has been showing a gradual improvement in the 2005-2009 periods. The performance of the sector grew by 2.8 in the three quarters of 2012, and strong growth was recorded in air transport, hotels and restaurant services.

Despite Brunei's high dependence on oil and gas, the government has long committed to diversify the economy by promoting private non-energy sector development and attracting more non oil and gas related investment. The formation of Brunei Economic Development Board (BEDB) in 2001 is to stimulate the growth, expansion and development of the economy by promoting Brunei as an investment destination and facilitating diversification projects.

The oil and gas sector employs only three percent of the workforce, and the public sector remains the largest employer of Brunei's population providing employment for over half of the workforce. With a population of over 400,000, about 80 percent of their food requirements still come from imported sources and certain staples such as rice and sugar, medical and educational services are highly subsidised by the government. The movement towards privatisation which has been on the national development agenda for many years slows down due to corporatisation of government agency and/or department that is registered and run under the companies act without undergoing changes in ownership. Corporatisation is the step to be undertaken first before actual privatisation in the context of Brunei.

Brunei has a low tariff regime and no capital gains or personal income tax. In 2012, amendments have been made to the Income Tax Act. Some of them include the reduction of corporate tax rates from 30 percent to 20 percent; the exemption of tax for the first US\$100,000 worth of income for newly set-up companies in the first three years of business; and the introduction of tax thresholds with further reduced tax rates. Such incentives and benefits aim to create a more conducive environment for doing businesses in Brunei and promote more direct investments from foreign entities in order to be more competitive in the ASEAN region.

Brunei recently signed Memorandum of Understandings (MOUs) in various projects. Collaborations with Singapore in the field of digital media such as IPTV, cable TV and mobile broadcasting; with Philippines in the fields of agriculture and farm-related trade and investments; with Korea in ICT, education and e-government; and with Alcoa of the US into the feasibility of establishing an aluminium-smelting plant in the Sultanate, to name a few.

The Government in collaboration with the United Nations Development Programme (UNDP) prepared Brunei Darussalam's first national Millennium Development Goals (MDGs) report which was launched in August 2005. The report indicated that Brunei's Human Development Index has improved from 0.917 in 2005 to 0.920 in 2009, and its global rank from 33 to 30. The country has shown significant progress on most of the MDGs including eradication of extreme poverty and the elimination of infectious diseases. The country is moving towards universal primary education, ensuring a sustainable natural environment, improving income distribution and strengthening international cooperation. To sustain these achievements and improve their levels, the Government has formulated a Long-Term Development Plan (LTDP) with a national vision known as *Wawasan Brunei 2035* complemented with well-defined strategies, policies, programmes and projects, and key performance indicators (KPIs).¹

Box 1: Wawasan Brunei 2035

The Government has formulated its first long-term national development framework for a 30-year period to sustain and enhance its achievements. The framework focuses on the need to find a sustainable path for the non-oil economy.

The framework provides for a National Vision called *Wawasan Brunei 2035*. It has well-defined goals. That is by 2035, Brunei as a nation is to be recognised 'for the accomplishment of its educated and highly skilled people as measured by the highest international standards; quality of life that is among the top 10 nations in the world; and a dynamic and sustainable economy with income per capita within the top 10 countries in the world.'

To realise the National Vision for 2035, Brunei has identified eight strategies with reference to different dimensions of development. These strategies are: (i) education; (ii) economic; (iii) security; (iv) institutional development; (v) local business development; (vi) infrastructure development; (vii) social security; and (viii) environment. These strategies are used as a guide to policymakers, regulators and implementers to prepare and manage all new and on-going development programmes and projects in line with the structural reforms and policy directions.

Source: <http://www.depd.gov.bn>

Competition Law and Policy²

Although there is no specific legislation in Brunei pertaining to the regulation of competition issues, the economy is open and market-oriented, and more importantly, striving to promote the deregulation, corporatisation and privatisation process, with a view to increasing the competition in accordance with the domestic situation and WTO commitments.

Whilst there is no particular law relating to all aspects of competition, there exists a law namely the *Monopolies Act Cap.73 of the Laws of Brunei*, which has been in existence since 1932 but has not been implemented so far. The Monopolies Act was created to regulate the establishment of monopolies. The Act in itself has never been amended since its creation and is outdated, no longer suited to modern economies and economic flows. The government currently takes the initiative of drafting a nationwide competition law in line with other countries in the Asean region, to provide the Brunei market with a set of regulatory framework that protects the competition process and prohibiting activities that unduly prevent, restrict or distort competition. The law will ensure fair rules for competition in business practices to enable protection of consumers and in ensuring they get the best possible products or services. Brunei aims to have the competition law by 2015 (Borneo Bulletin, November 2012).

Sectoral Regulation

All agencies in Brunei are mandated to undertake necessary regulatory frameworks and/or reforms to raise productivity and improve performance in the public and private sectors. Currently, there is no specific, central agency with responsibility for reviewing and undertaking regulatory reform. Regulatory reviews are undertaken on an on-going basis by sector-specific regulators and agencies concerning issues within their jurisdictions, with the aim to boost the overall economic competitiveness. Brunei is still considering whether a comprehensive single regulatory body or sectoral regulations best fits the country's economic structure, and how properly to implement the competition rules from the grassroots up. No mandatory standards (technical regulations) are present in the country, but there have been regulations related to the telecommunications, the electricity and the financial sectors.

Telecommunications Sector³

The Government of Brunei initiated the restructuring of the Information and Communication Technology (ICT) industry in 2001. To this effect, three new legislations were enacted:

- *The Telecommunication Successor Company Order, 2001*. Under this Order, Telekom Brunei Limited (TelBru) that was established in June 2002 is the designated telecommunication successor company. It took over the operations of telecommunication services from Jabatan Telekom (JTB) on the date of

corporatisation. This Order transfers all the JTB's property, rights and liabilities to TelBru.

- *The Authority for Info-communications Technology Industry of Brunei Darussalam (AiTi) Order 2001*. This Order establishes AiTi as an independent statutory body to regulate the local ICT industry, and provides for its functions and duties. This order was brought into effect on January 01, 2003.
- *The Telecommunications Order, 2001*. This Order confers upon AiTi the exclusive privilege to operate and provide the legal framework for telecommunication system and services in Brunei, and also to exercise licensing and regulatory functions as outlined in the AiTi Order 2001.

With the reform of the telecommunication sector and the corporatisation of JTB as TelBru with effect from April 01, 2003, more competition is injected into the sector resulting in a wider availability of choices and a reduction in prices, particularly in the cellular mobile segment.

Electricity Sector

There is no particular legislation governing the electricity sector in Brunei. The electrical services are currently supplied by two agencies: the Department of Electrical Services (DES) and the Berakas Power Company/Berakas Power Management Company (BPC/BPMC). The DES is the government utility in charge of the generation, transmission, and distribution of electricity in the country. It sets the standards for the usage of electricity in public buildings, and oversees their overall electro-mechanical maintenance. The functions of DES are to:

- generate electricity;
- provide electricity supply infrastructure;
- collect revenue from the sale of electricity;
- provide technical advice in the field of electricity;
- inform and educate the customers on the technology and safe usage of electricity;
- control the quality of electrical equipment supplied and those used by contractors; and
- develop and maintain the electrical system.

The BPC which also has most of the functions of the sector authority, supplies power to users in the Brunei Muara district exclusively at royal palaces, hospitals and military facilities. It is owned by the state (under the control of Brunei Investment Agency), but operates as a private limited company and therefore has autonomy of operation.

Financial Sector

The country's financial sector is set to expand in the coming years, following a series of advances that will strengthen its operational and regulatory base and bridge some of the gaps that have restricted the development of new products and services. Local and international authorities have pinpointed some key areas for improvement, most importantly in regulation and monitoring.

The establishment of Brunei International Financial Centre (BIFC) in July 2000 acts as a catalyst to project Brunei into the front ranks of regional and world financial players in the global economy. Products and services offered by BIFC are reflected in the following statutes: the International Business Company Order 2000; the International Limited Partnerships Order 2000; the International Banking Order 2000; the Registered Agents and Licensed Trustees Order 2000; the International Trusts Order 2000; Mutual Funds and the Securities Orders; and International Insurance and Takaful Order.

The domestic financial system can be divided into two categories: banking system – commercial banking and Brunei Currency Monetary Board (BCMB); and non-banking financial institutions comprising of finance companies, insurance companies and Takaful, money-changer & remittances, Employees' Trust Fund (TAP) and Islamic Trust Fund of Brunei (TAIB).

Brunei's financial sector is dominated by the banking sector. Out of the eight banks presently licensed to conduct businesses within the country, six are foreign owned (Citibank, HSBC, Malayan Banking, RHB Bank, UOB Bank, Standard Chartered Bank) and represented by branch operations. Two leading local banks are Baiduri Bank and Bank Islam Brunei Darussalam Berhad (BIBD). BIBD is the official banking institution that provides Islamic banking services and offers investment opportunities and options for consumers to choose. This helps to enhance the financial sector by creating fair competition amongst the other conventional financial institutions.

The Monetary Authority Brunei Darussalam (AMBD), established in January 2011, acts as the central bank of Brunei and has been entrusted with the formulation and implementation of monetary policy, supervision of financial institutions and currency management. Following the establishment of the AMBD, the Currency Interchangeability Agreement (CIA) between the Government of Brunei and the Government of the Republic of Singapore remains intact. Under this Agreement, the Brunei Dollar is pegged to the Singapore Dollar at parity and is customary tender in Singapore and *vice-versa*.

Having bolstered its regulatory framework, the country continues to strengthen its capacity, infrastructure and human resources to enable it to fully undertake its responsibilities, and further aims to develop Brunei as a reputable Islamic financial center.

Consumer Protection

A new legislation on Consumer Protection – the Consumer Protection (Fair Trading) Order (CPFTO) 2011 has been adopted and came into force in January 2012. It aims to meet the long-awaited protection of consumer interests and rights, giving consumers the power to bring cases to court within the prescribed limit and limitation period.

The JPKE (Department for Economic Planning and Development) is the authority responsible for its enforcement.

Under this new Order, consumers in Brunei now have the right of court backing for compensation of goods and services bought from suppliers who have been found to have engaged in “unfair practices.” Apart from the CPFTO, there are related legislations that directly or indirectly influence consumer welfare, protecting consumers' interests against overpriced and substandard goods such as the Price Control Act, the Weights and Measures Act, Inventions Act, Copyright Order and Unfair Contract Terms Act.

The Consumers Association Brunei Darussalam (CAB), established in February 2001, is actively engaged in educating the public on consumer rights, highlighting information on pricing, product quality and value and inculcating the responsibility towards becoming smart consumers.

Concluding Observations and Future Scenario

The country has long relied on sector-level policies and regulations to achieve the competition policy, but today Brunei is in the preliminary stage of developing its competition law and policy and considers how to properly implement the competition regulation at the grass roots level. In this respect, the Government of Brunei shows a keen interest in gaining experiences of other developing economies in terms of implementation, development and maintenance. It is important to introduce the competition policy at an early stage of development, particularly in the context of privatisation.

The decision however, has yet to be made on what kind of competition law would be suitable for Brunei, given the small size of market in all the sectors. The government needs to be clear with the functions of the competition policy they are willing to adopt, and the design and/or implementation of the competition law must put in line with the objectives of the competition policy in terms of substance and process. The country needs a system that can both regulate and ensure that effective competition is needed to allow fair and sustainable development, and as well a system that ensures interconnections between governments, markets and civil society.

To sum up, it is clear that the country lacks the competitive environment that allows competition to be enhanced and creates the required business friendly environment. One of the fundamental problems in Brunei is an absence of required expertise in terms of competition and the processes that affect competition. The anticipated costs and anticompetitive consequences must be seriously considered before embarking on the competition policy. These require thoughtful consideration of the reasons and timing for implementing the competition law and policy,

devising methods by which knowledge on competition issues can be instilled in the public, private and academic sectors. There is a need for effective enforcement and to develop strong cooperation mechanisms between the competition authority and regulatory authorities; cooperation of the business community in the development of policies and institutions to implement them; and clear-cut relations between competition policy and other government policies.

The government should opt for best approach by eliminating the barriers that negatively affect competition in various goods and services markets, embark on a serious trade liberalisation policy regarding tradeable goods, remove existing barriers to FDI in services and non-tradeable sectors and finally, continue creating sectoral regulations that fit the nature of each sector.

To enhance competition, Brunei will have to:

1. continually review the regulatory frameworks governing individual industrial sectors, with a view to boosting overall economic competitiveness;
2. devise certain tools to impart knowledge on competition policy issues;
3. participate in competition policy dialogues and training, seminars/workshops conducted by Asia Pacific Economic Cooperation (APEC), WTO and other international economic associations;
4. facilitate the establishment of a national consumer protection law and agency; and
5. increase public awareness which is of crucial importance for the success of the law and policy to be implemented. Without informed stakeholders, particularly the business sector and consumer organisations, the competition law and policy lack meaning.

Endnotes

- 1 <http://www.depd.gov.bn/mdg/Downloads/Brunei%20Final%2MDG%202nd%20Report.pdf>
- 2 Migration and Remittances Factbook, 2011, 2nd edition – World Bank
- 3 Brunei Darussalam's Policy and Regulatory Update

Suggested Readings

Background paper on competition in Brunei Darussalam: www.jftc.go.jp/eacpf/05/APECTrainingProgram2002/Brunei.pdf
Brunei Darussalam's Policy and Regulatory Update

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